

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

WODENA CAVNAR; ROSALINE
TERRILL; LINDA PARKS; and
DAVID SCOTT, on their own and on
the behalf of all others similarly
situated,

Plaintiffs,

v.

BOUNCEBACK, INC, a Missouri
corporation; STONE FENCE
HOLDINGS, INC; GALE KRIEG; and
DOES 1-20,

Defendants.

NO: 2:14-CV-235-RMP

ORDER GRANTING MOTION TO
COMPEL DISCOVERY RESPONSES
AND TO AWARD FEES

Before the Court is Plaintiffs' Motion to Compel Discovery Responses and
Award Fees, ECF No. 36, and a Motion for Leave to File Excess Pages, ECF No.
35. Defendants have not responded.

Plaintiffs contend that they served their first set of interrogatories and
requests for production on each Defendant on September 10, 2014. ECF No. 37 at

ORDER GRANTING MOTION TO COMPEL DISCOVERY RESPONSES AND
TO AWARD FEES ~ 1

1 2. Plaintiffs agreed to extend the response deadline until October 31, 2014, but
2 Defendants did not serve responses until November 24, 2014. ECF No. 37 at 2.

3 Plaintiffs also report that they contacted Defendants multiple times
4 throughout February regarding deficiencies in Defendants' discovery responses but
5 that defense counsel failed to respond until March 4, 2015. ECF No. 37 at 3-4.
6 Defense counsel met and conferred with Plaintiffs' counsel and provided some of
7 the requested discovery, but other discovery concerns that Plaintiffs raised were
8 left unaddressed. *See* ECF No. 37 at 4.

9 Plaintiffs served a second set of interrogatories and requests for production
10 on February 9, 2015. ECF No. 37 at 5. Defendants did not provide responses until
11 May 12, 2015. ECF No. 41, Attach. 1 at 2.

12 After Plaintiffs filed the current motion, Defendants supplemented some of
13 their discovery responses. *See* ECF No. 41 at 2-3. Plaintiffs request the Court to
14 compel Defendants to produce complete discovery responses and to award
15 reasonable costs and attorney fees for bringing this motion. ECF No. 41 at 3-4.

16 *1. Production of Discovery*

17 Plaintiffs request the Court to compel Defendants to provide complete
18 responses to their discovery requests. ECF Nos. 36 at 5-13; 41 at 2-3. The Federal
19 Rules of Civil Procedure provide that a party must respond to interrogatories and to
20 requests for production within 30 days after being served. Fed. R. Civ. P. 33(b)(2);
21 34(b)(2)(A). "It is well established that a failure to object to discovery requests

1 within the time required constitutes a waiver of any objection.” *Richmark Corp. v.*
2 *Timber Falling Consultants*, 959 F.2d 1468, 1473 (9th Cir. 1992).

3 Here, it is undisputed that Defendants failed to respond to Plaintiffs’ first
4 and second sets of discovery requests within 30 days after the requests were
5 served. Therefore, Defendants have waived any objections to those requests and
6 must respond fully.

7 Additionally, because Defendants did not respond to the Motion to Compel,
8 the Court presumes that they consent to an order granting the motion. *See* LR
9 7.1(d) (“The failure to comply with the requirements of [provisions governing
10 motions and responsive memorandums] may be deemed consent to the entry of an
11 Order adverse to the party who violates these rules.”).

12 *2. Attorney Fees and Costs*

13 Plaintiffs request reasonable attorney fees and costs incurred in bringing this
14 motion. ECF No. 36 at 26. When the Court grants a motion to compel, Federal
15 Rule of Civil Procedure 37(a)(5)(A) requires the party “whose conduct
16 necessitated the motion . . . to pay the movant’s reasonable expenses incurred in
17 making the motion, including attorney’s fees.” In determining the amount of
18 reasonable attorney fees, the Court must establish a “lodestar” by multiplying the
19 number of hours reasonably expended on the litigation by a reasonable hourly rate.
20 *See Welch v. Metro. Life Ins. Co.*, 480 F.3d 942, 945-46 (9th Cir. 2007).

1 Pursuant to Rule 37(a)(5), Plaintiffs are awarded attorney fees incurred in
2 bringing this motion to compel.

3 Accordingly, **IT IS HEREBY ORDERED:**

4 1. Plaintiffs' Motion for Leave to File Excess Pages, **ECF No. 35**, is
5 **GRANTED.**

6 2. Plaintiffs' Motion to Compel Discovery Responses and Award Fees,
7 **ECF No. 36**, is **GRANTED.**

8 3. Defendants are ordered to respond fully to Plaintiffs' first and second
9 sets of discovery requests on or before **August 11, 2015**. As noted
10 above, Defendants have waived any objection to Plaintiffs' first and
11 second sets of discovery requests.

12 4. On or before **August 25, 2015**, Plaintiffs shall submit itemized billing
13 sheets for claimed fees and costs. Defendants may file any objections
14 to Plaintiffs' claimed fees and costs no later than **September 1, 2015**.

15 The District Court Clerk is directed to enter this Order and provide copies to
16 counsel.

17 **DATED** this 21st day of July 2015.

18
19 s/ Rosanna Malouf Peterson
20 ROSANNA MALOUF PETERSON
21 Chief United States District Court Judge